Ministry of Intergovernmental Relations

Annual Report

April 1, 1985 to March 31, 1986

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Ministry of Intergovernmental Relations

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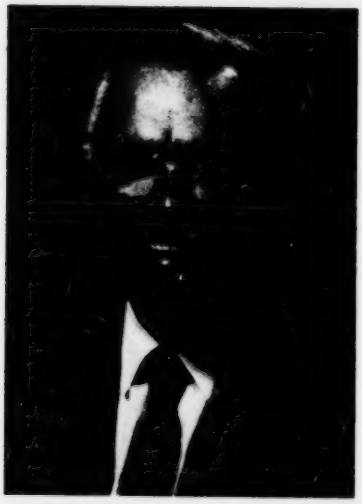

Honourable Garde B. Gardom, Q.C.
Minister of
Intergovernmental Relations

British Columbia Cataloguing in Publication Data
British Columbia Ministry of Intergovernmental Relations
Annual Report — 1st (1979/81) —

Report year ends March 31
First report covers Nov. 23, 1979 to March 31, 1981
ISSN 0713-2751 = Annual report — Ministry of
Intergovernmental Relations (Victoria)

1. British Columbia. Ministry of Intergovernmental
Relations — Periodicals

JL432.Z57 354.711008

Province of British Columbia

OFFICE OF THE MINISTER

Ministry of Intergovernmental Relations

Parliament Buildings
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September 2, 1986

The Honourable Robert G. Rogers,
Lieutenant Governor of British Columbia

MAY IT PLEASE YOUR HONOUR:

Herewith I respectfully submit the Annual Report of the Ministry of Intergovernmental Relations for the fiscal year ended March 31, 1986.

Yours truly,

Garde B. Gardom, Q.C.,
Minister,
Intergovernmental Relations

Province of British Columbia

OFFICE OF THE DEPUTY MINISTER

Ministry of Intergovernmental Relations

Parliament Buildings
Victoria
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August 20, 1986

The Honourable Garde B. Gardom, Q.C.
Minister of Intergovernmental Relations
Parliament Buildings
Victoria, B.C.
V8V 1X4

Sir:

I have the honour to submit the Annual Report of the Ministry of Intergovernmental Relations for the fiscal year ended March 31, 1986.

Yours truly,

MELVIN H. SMITH, Q.C.,
Deputy Minister

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Introduction

The mandate of the Ministry is set out in the Premier's organizational directive of November 1979 and the *Ministry of Intergovernmental Relations Act*, and includes:

(a) coordinating and developing policies, strategies and activities regarding British Columbia's relations with other governments;

(b) developing British Columbia's policy on proposals to amend the Constitution and reform the institutions of federalism;

(c) acting as secretariat to the Executive Council and its committees and coordinating policy development among the ministries;

(d) organizing international and federal-provincial meetings and conferences in British Columbia and organizing programs for official visitors to the Province

(e) operating British Columbia House in Ottawa; and

(f) operating British Columbia House in London, England.

Both with respect to relations with other governments and in connection with the functioning of the Cabinet Secretariat, the Ministry provides services for the Premier and Executive Council, as well as for its own Minister.

In order to fulfill its objectives the Ministry is divided into the following units:

The *Federal Provincial/International Relations Division* ensures that British Columbia's relations with the federal government, the governments of other provinces and the governments of other countries are conducted in a consistent, coordinated and effective manner.

The *Constitutional Affairs and Special Projects Division* is responsible for carrying out the Ministry's mandate to develop B.C.'s policy on proposals to reform the Constitution — the Ministry's true line program. Few governments in Canada over the past number of years have contributed as much to the process of renewal of the Constitution as British Columbia.

The *Cabinet Secretariat* provides executive support for the Cabinet and Cabinet Committee system and coordinates an efficient flow of quality information to Cabinet to facilitate that body's decisions. The Secretariat is also responsible for follow-up to the decisions of Cabinet and its committees.

The *Official Visits and Conferences* unit is charged with organizing official visits to and from the Province, arranging government-related meetings and conferences and has been heavily involved in the Official Visits program of Expo 86.

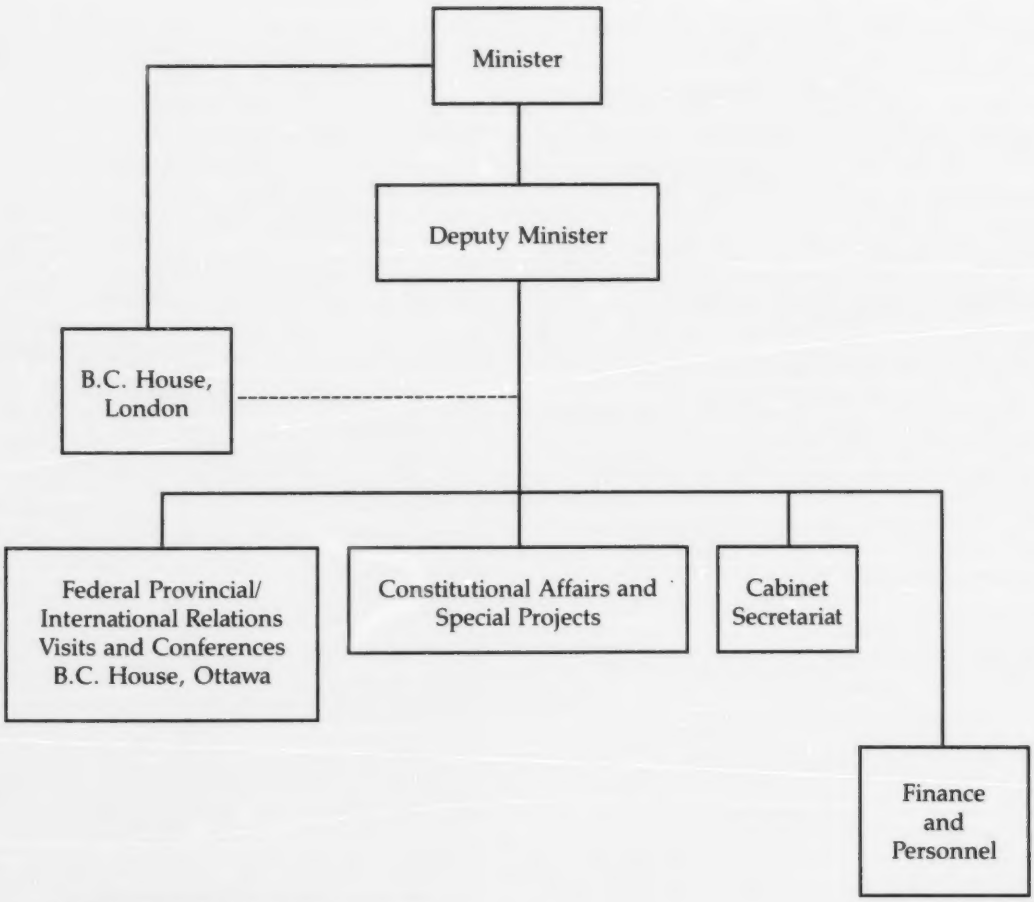
British Columbia House in London has represented the Province in the United Kingdom for over 114 years, facilitates travel missions by B.C. Ministers and officials in Europe, and deals with trade and tourism promotion.

The *Finance and Personnel Division* supplies the complete range of financial, personnel and administrative services required by the Ministry.

The Ministry has a full time equivalent employee complement of 42 and, at present, an additional 14 employees under contract or locally engaged (excluding contract employees engaged in the Expo 86 official visits program).

The activities of the Ministry's units during the period April 1, 1985 to March 31, 1986 are set out below.

Ministry of Intergovernmental Relations



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Federal Provincial/International Relations

The Federal Provincial/International Relations Division comprises three areas of activity: International Relations, Federal Provincial Relations, and B.C. House, Ottawa.

The Division is responsible for coordinating British Columbia's overall approach to intergovernmental relations; advising the government on specific intergovernmental issues; monitoring activities of the federal, provincial, and foreign governments, and the possible effects of such activities on the Province's affairs; and keeping line ministries informed of relevant developments in other jurisdictions.

This Division is the main formal point of contact between the British Columbia government and other governments, with liaison being maintained with all provincial ministries. It also provides information flow to other governments. It has a staff of eight people.

International Relations

In this area, the Division operates as a major link between the British Columbia government and the Federal Department of External Affairs. It acts as a conduit for information from federal authorities, and coordinates provincial responses to federal requests for input on issues with international ramifications. Its coordination role is achieved by various activities, including:

- convening meetings of ministries that could be affected by decisions of foreign governments or by international policies of the federal government;
- providing advice to ministries on international matters; and
- acting as observers for the B.C. government on several international committees and commissions.

In addition to this coordinating function, the Ministry represents the B.C. government at federal provincial discussions of international issues and on Canadian delegations.

Specific activities of an international nature in which the Division has been involved in the 1985-86 fiscal year include the following:

People's Republic of China

From September 15 to 29, 1985, the Honourable Garde Gardom, Q.C. led a delegation of senior private sector representatives to the People's Republic of China. The mission's objectives, which were successfully achieved, were:

- to consolidate ties with Shandong Province and other areas of China established as a result of Premier Bennett's earlier visit;
- to provide mission members with a greater understanding of China's requirements in the field of professional and business services;
- to identify how British Columbia's professional expertise can assist China to achieve its priorities and meet its long term objectives;
- to initiate an interchange of professional skills in the area of professional and business services.
- to advance the interests of Expo 86 and the B.C. International Food Fair, Food Pacific 86.

Relations with the United States

The Ministry plays a major role in regional relations involving the United States. It coordinated briefing, and provided logistical support for the Premier when he visited Washington, D.C. (June 1985), participated in the National Governors' Conference (Boise, Idaho, August 1985), met with the Governors of California and Washington State (September, 1985), and participated in the regular trilateral Heads of Government meetings involving Alaska and Yukon.

The Ministry tracks policy initiatives on the American scene which might affect the

province, and distributes this information to all provincial ministries about a dozen times a year.

Canada/U.S. Trade

In September 1985, Canada initiated a process which led to the beginning of broad freer trade negotiations with the United States. One of the most important issues which had to be addressed in connection with these talks was the extent and nature of participation by provincial governments in setting the negotiating mandate, directing the course of negotiations and implementing any agreement which may be reached.

The Ministry took the lead in analyzing and providing advice on these process-related aspects. In addition, a Ministry official is a member of the B.C. team on the Continuing Committee on Trade Negotiations chaired by Canada's Chief Negotiator, Mr. Simon Reisman.

Sage Creek

For several years the Ministry has coordinated efforts of various ministries dealing with the application of the Sage Creek Coal Company to build an open pit coal mine in B.C. near the Canada-U.S. border. The issue also involves the United States government and the State of Montana.

After Canada-United States consultations in 1984, it was agreed that the possible trans-boundary environmental impact of this project warranted a fact finding reference to the International Joint Commission. The Division closely follows the work of that Commission's Study Team, and monitors the activities of the various jurisdictions involved. The Study Team is expected to report by the end of 1986. The Division also provides an observer on the Flathead Basin Commission established by the Montana Legislature.

Alaska Panhandle Access

The Ministry facilitated consultations between the federal government and provincial ministries in the development of a Canadian position. Input from various ministries was sought and individual views were integrated in a paper later adopted as the Canadian official position. The Ministry represented the province on the Canadian delegation at Canada-U.S. consultations which took place in Washington, D.C. on May 2, 1985. Since then, the U.S. administration has produced a draft report to Congress on the subject, and Canada has commented on this document. A second Canada/U.S. meeting will probably be required and the Ministry will again represent B.C. at these talks.

At issue is the provision of Canadian transportation access through Southeast Alaska (the Alaska Panhandle). Such transportation options could be crucial for the economic development of the northwest region of the province.

Federal Provincial Relations

The Context of Federal Provincial Relations

With the extent of interaction between the federal and provincial governments increasing dramatically over the past twenty years, an increased level of intergovernmental policy and financial interdependence has developed in most aspects of governmental activity, for example:

(a) fiscal issues ("financing Confederation")

- fully 20% of federal program expenditures, totalling some $19.5 billion in 86/87, are in the form of transfer payments to provinces for social programs and equalization alone
- 22% of total B.C. revenues, equalling $1.9 billion in 86/87, and up to 85% of total revenues in the have-not provinces, are transfers from Ottawa

(b) institutional/constitutional issues

- patriation and the establishment of a relatively straightforward amending formula have served to increase the need for and ease of federal and provincial government interaction on constitutional issues
- agreement in February 1985 to a series of Annual First Ministers' Conferences to "review the state of federal-provincial relations" and "consult on major issues that concern both orders of government and in particular the

state of the economy" points to a greater degree of coordination and structure in intergovernmental relations

(c) policy issues

— federal responsibility for trade, tax, tariff and monetary policy all have a vital impact on provincial economies

— provincial powers over economic development, social programs and non-tariff trade barriers affect federal decisions on monetary policy, exchange rate, industrial and regional development, trade policy, and related matters

(d) program issues

— overlapping and/or unclear responsibilities in fields which have newly emerged or expanded in importance, (eg. human resource development, economic development, income security, communications, agriculture, immigration and justice) lead to an increased need for coordination and cooperation

— demands on provinces for services (especially health care, education, welfare) have grown dramatically since World War II, resulting in faster growth in the capacity of government at the provincial level, and recurring intergovernmental issues of financing, national standards, and jurisdiction

Since the present federal government took office in September, 1984, the volume of intergovernmental contact over the whole range of issues of mutual concern has expanded significantly. In the twelve months following September 1984, some 438 federal-provincial meetings involving Ministers or Deputy Ministers took place, almost tripling the average of the preceding four years.

It is against this backdrop of increasing interdependency and interaction among governments that the particular events and activities in 1985-86 must be viewed.

There are four major facets to this aspect of the Federal Provincial/International Relations Division. They are: preparation for, and coordination of federal-provincial and interprovincial conferences; monitoring of federal-provincial initiatives and reporting of these activities in regular information bulletins; participation in discussions leading to the development of intergovernmental agreements; and, coordinating British Columbia's positions on federal-provincial issues and conducting analyses of policies, programs and activities of other governments and how they may affect British Columbia.

Federal-Provincial Conferences

The Division takes a lead role in preparing briefing material and providing logistical support for British Columbia at major federal-provincial and interprovincial conferences.

In 1985-86, the Division coordinated the preparation of briefing documents for the First Ministers' Conference in November, 1985, the Annual Premiers' conference in August, 1985, and the Western Premiers' conference in May, 1986. On a number of occasions, officials of the Division assisted line ministry delegations at Ministerial and senior officials level meetings.

The Division's coordinating role with respect to intergovernmental conferences involves informing line ministries of the intergovernmental aspects of topics to be discussed, helping to establish B.C.'s positions on agenda items, assisting in the preparation of relevant briefing notes for the Premier, Minister or senior government officials, and providing staff support. The Division is also directly involved in follow-up work emanating from such conferences.

With the establishment of annual First Ministers' Conferences, the Division ensures a continuity of substance and approach throughout the numerous Premiers' and Ministers' meetings in between these annual conferences.

Federal Provincial and Interprovincial Information Program

The Division continued the regular updating of the Federal-Provincial Information System. The System comprises an inventory of approximately two hundred and fifty intergovernmental issues and agreements. It is made available to all B.C. government Ministers and their Deputies.

The Division provides to line Ministries and the Premier's Office, on a monthly basis,

"Ottawa Report", a summary of federal policy initiatives, and personnel changes at the federal level. "Ottawa Report" enables officials to assess developments on the federal scene and increase their understanding of the direction of the federal administration.

To keep provincial ministries abreast of selected initiatives and policy decisions in the other provinces and in the territories, the Division continued to distribute to ministries its monthly review of developments in these jurisdictions.

To provide ministries with a perspective on upcoming federal-provincial and inter-provincial activities and issues, the Division has made available a monthly calendar of intergovernmental conferences including highlights of the topics to be discussed.

Line ministries continued to utilize the services of the Division to facilitate the flow of information between them and their federal and provincial counterparts. Intergovernmental officers have responsibility for specific policy areas and provinces.

Federal Provincial Agreements

The Division participates in discussions leading to the signing of new or revised federal-provincial agreements. While the administration of agreements and, in most cases, the articulation of policy positions connected with them remains the responsibility of line Ministries, it is the Ministry's task to ensure coordination and continuity in government policies when other governments are involved.

In accordance with this responsibility, the Division is involved in monitoring developments occurring on the federal scene and in other provincial jurisdictions during pre-agreement discussions, and acts as a resource for B.C. government Ministries in formulating British Columbia positions on proposed intergovernmental initiatives. In 1985-86, these activities included such diverse areas as training, immigration and young offenders agreements.

In 1985-86, as part of the process of expanding its activities in this area, the Division also conducted, in cooperation with the Ministry of Finance, an examination of the negotiation and administration of federal-provincial agreements. The purpose of this review was to develop recommendations to improve revenue collection for the provincial government and provide more cost-effective program delivery.

Federal Provincial Issues

The Division prepares, for the Minister and the Office of the Premier, regular analyses of the general state of federal-provincial relations. These semi-annual overview reports provide recommendations on the overall approach which British Columbia might adopt with respect to its federal-provincial objectives.

In performing its role in providing input for the formulation of the Province's position on individual federal-provincial issues, the Division, in the last year, facilitated consultations between the federal and provincial governments concerning the preparation of an intergovernmental paper on issues of special concern to women. The report was reviewed by Ministers responsible for the Status of Women at their meeting in February, 1985 in Ottawa and then by First Ministers at the Annual First Minister's Conference that took place in Halifax in November, 1985.

The Division also coordinated the participation of various Ministries in the preparation of the Province's position on changes to the *Bankruptcy Act* that are being considered by the federal government.

In late 1985, the federal government announced its intention to increase a range of fees in the national parks in the Rocky Mountains. The Division took the lead in developing the Province's position on this subject, made representations to the federal government seeking full provincial consultation before a decision was made on this question and urged federal authorities not to impose a fee on motorists passing through the parks on the Trans-Canada and Yellowhead Highways.

In the past fiscal year, the Division coordinated an analysis of the far-ranging *Report of the Royal Commission on the Economic Union and Development Prospects for Canada* the "Macdonald Commission Report" and the input of provincial officials into the work of the federal government's *Task Force on Program Review* the "Nielsen Task Force."

British Columbia House, Ottawa

British Columbia has been represented in Ottawa since 1980. Throughout 1985-86, British Columbia House continued to serve as a channel of communication between the provincial and federal governments. Much activity focused on monitoring policy and legislative initiatives of the federal government. Comprehensive legislative summaries were prepared and distributed with the "Ottawa Report" to provincial ministries. B.C. House also responded to requests from Members of Parliament and federal officials for information on developments in the Province.

In 1985-86, the Office arranged a major reception to promote Food Pacific 86, hosted by the Minister of Agriculture and Food. In addition, the Office coordinated the logistics for the EXPO 86 Ottawa dinner, hosted by the Minister of Tourism, held in conjunction with the National Tourism Conference.

British Columbia House provided administrative and support services to provincial Ministers and officials attending Conferences and meetings in Ottawa. Several line ministries held meetings in the Office. The Ministry of Industry and Small Business Development used this facility for meetings between federal officials and British Columbia businessmen aimed at enhancing our business communities' ability to secure federal government contracts. Additional activity in this area is anticipated.

British Columbia House continued to play an important role in providing information about the province and preparing briefing materials for individuals attending meetings in British Columbia. The Office responded to numerous enquiries concerning EXPO 86 and facilitated arrangements for speakers to make presentations to community organizations. Travel agents, journalists, educational institutions and the general public regularly contact the Office for information and assistance.

Official Visits and Conferences

The Visits and Conferences Branch of the Ministry of Intergovernmental Relations coordinates, plans, and manages visits to British Columbia by Canadian and foreign leaders, officials and private sector representatives. Included in these groups are heads of state, elected representatives, diplomats, government officials, academics and journalists.

The Branch works closely with the Department of External Affairs, foreign Embassies and Consulates, federal government departments, other provincial governments and others to plan visits. The Branch assists the Department of External Affairs with planning the British Columbia portion of national visits and arranges briefing trips to the Province by Canadian Ambassadors-designate prior to their assuming their foreign postings.

In order to plan the details of a visit to British Columbia, the Branch liaises with the office of the Premier, Ministers' offices, senior officials in the province's Ministries and with senior executives and employer groups in the private sector to arrange appointments beneficial to both the visitor and the province. Transportation requirements, meeting facilities, hospitality events, guest lists, and appropriate greeting and departure arrangements are also planned. Usually, a staff member from the Branch escorts the visitor through the official functions.

When the Premier hosts a conference in British Columbia, the Branch provides the necessary planning and staffing functions to ensure its success.

The Branch assists in the planning and coordination of foreign visits by British Columbia Ministers and officials.

EXPO 86 Official Visits

With the appointment of the Honourable Garde B. Gardom, Q.C. as Minister responsible for the Committee on EXPO 86 Official Visits, additional duties were assigned to the Visits and Conferences Division.

The Ministry employed a full-time Coordinator of Official Visits for EXPO 86, with the Ministry's Director of Visits and Conferences being appointed a Deputy Coordinator.

The mandate of the Coordinator is to ensure a positive and productive attendance at EXPO 86, and elsewhere within the province, of selected political, business and professional leaders from throughout the world. It is also the responsibility of the Coordinator to inject a British Columbia Government presence into the programs of visitors invited by the Federal Government and others.

The Official Visits Division actively participates in all stages of the planning process for the Expo visits of official guests of the British Columbia Government. In addition to planning these individual and group visits, the unit is also involved in two other major types of visits: National Day Visits and Special Day Visits.

For National Day Visits, the Division shares responsibility for planning the visitor's program with the Federal Department of External Affairs and with the Protocol Section of EXPO 86.

National Day and Special Day planning responsibilities include arranging the participation of a provincial representative at the official greeting, at National and Special Day Ceremonies and events, at the official farewell, arranging guest lists for functions hosted by the Province, and proposing guests for other official functions. Official Visits also arranges tours of EXPO and hospitality events, and guest lists and meetings with British Columbia private and public sectors representatives and appropriate tours to other parts of the Province.

Constitutional Affairs and Special Projects Division

Role and Organization of the Division

The Ministry's mandate to develop policies for the improvement of the Canadian federal system and changes to the Constitution of Canada is handled within the Ministry by the Constitutional Affairs and Special Projects Division.

In order to perform this role, the Division monitors all federal-provincial developments affecting constitutional affairs and issues of legislative authority amongst the various governments in Canada. The Division provides the expertise necessary for policy development, policy coordination and the effective conduct of constitutional and other related federal-provincial negotiations.

Within the general field of intergovernmental relations, constitutional issues are often at the very heart of these relationships. The Constitution represents the "rules" by which the broader federal-provincial relations "game" is played. Accordingly, the Division works closely with the Federal Provincial/ International Relations Division, other provincial ministries, and governments on constitutional and other related major intergovernmental matters.

The Division ensures that the Premier, the Minister and Cabinet are well advised and well represented, and that positions that best advance the interests and maximize the influence of British Columbia in Confederation, are put forward effectively in constitutional negotiations and other related federal-provincial discussions. The Division also handles such other major federal-provincial issues as the question of offshore petroleum and mineral resource ownership and jurisdiction.

While the major role of the Division is largely one of original policy development, the Division is also involved in policy coordination across the provincial government. In addition, the Division advises provincial ministries on British Columbia's policies and consults with other governments, institutes, academics and individuals in order to obtain their views on relevant issues.

The distinction between the work of the Attorney General's Ministry (in the area of constitutional law) and that of the Constitutional Affairs Division of this Ministry is that the Ministry of Attorney General is concerned with day-to-day constitutional court cases and furnishing legal opinions, whilst this Division is concerned with constitutional reform and the broader political science and policy issues that go beyond the legal aspects. This agreeable division of function over the years has proven to be most practicable and workable.

The Division consists of the Director, Constitutional Affairs and Special Projects, a Research Officer (part-time) and a secretary.

Constitutional Reform

a) Quebec and the Constitution

On May 17, 1985, the then Government of Quebec unveiled its requirements for acceptance of the *Constitution Act, 1982* containing over a dozen proposed changes to the Constitution. These included the exemption of Quebec from the language of education provision of the *Charter* (s. 23), a general veto for Quebec *or* compensation on opting out of an amendment reducing provincial power, and various specific changes to the division of powers. These proposals were the subject of an extensive analysis prepared for the Premier and the Minister by the Division in June of 1985.

The importance to the Federal Government of Quebec being part of the Constitutional Accord was made clear by Prime Minister Mulroney on several occasions (notably in the Sept-Îles speech during the election campaign on August 6, 1984 and in the speech from the throne of November 5, 1984).

In his May 21, 1985 response to the proposals released by Quebec, the Prime Minister stated that the fact that Quebec remains outside the Constitutional Accord signed by the other provinces is unacceptable; it "sears the soul of the nation. Entire founding groups have been eliminated from our constitutional process".

He added that for the Federal Government "apart from bringing about economic renewal, at the top of our priorities is a national reconciliation".

The unanimous agreement of all governments is a constitutional requirement for any changes to the amending formula.

The November 5, 1985 Federal Government speech from the Throne said, "the Constitutional Agreement is incomplete so long as Quebec is not part of an Accord. While their principle obligations are to achieve economic renewal, my Ministers will work to create the conditions that will make possible the achievement of this Accord. In this work, the cooperation of all partners in Confederation will be necessary."

With the change in Government in Quebec on December 12, 1985, the new Quebec Government took office stating in its inaugural address to the National Assembly that it "will undertake the next negotiations aimed at the agreement of Quebec to the *Constitution Act, 1982*".

Quebec has since put forward the following five matters as preconditions for its acceptance of the *Constitution Act, 1982*:

1. Explicit Constitutional recognition of Quebec as a distinct society;
2. Increased power over immigration matters;
3. Delimitation of the federal spending power;
4. Recognition of a Quebec veto over constitutional amendments; and,
5. Quebec participation in the appointment of judges to the Supreme Court of Canada.

The Division prepared a paper on the Quebec proposals in March 1986 for the Premier's use at a meeting with the Premier of Quebec and continues to prepare the Government for the reopening of negotiations with all governments on this issue in the year to come.

b) Federal Institutions

One of the most serious defects in our present Constitutional arrangements is the inadequacy of the central institutions of the country to represent the needs and aspirations of outlying regions such as British Columbia.

The natural forces of geography, history and the focus of British Columbia's economy contribute to our sense of remoteness from the rest of the country. Rather than being abated by representation in national institutions, this feeling is, in fact, aggravated by its lack.

Unless national institutions are restructured or appointments are made more broadly to give British Columbians and citizens of other outlying provinces the kind of representation they require, the serious conflicts and frustrations that have been the hallmark of our federation will continue to resurface.

This serious defect in our federal-provincial system of government in Canada requires basic structural changes to our national political institutions.

Since 1976, British Columbia has been calling for reform of Canada's Senate so that it in fact brings provincial and regional interests to bear in the national decision-making process as it was intended to do.

British Columbia has not advocated Senate Reform for its own sake but because it has wanted to see an institutional capacity for dealing with and lessening federal-provincial conflict and promoting federal-provincial policy coordination.

The delay of Government measures by the Opposition dominated Senate in March 1985 prompted the Federal Government to re-examine the question of Senate Reform. Although it appears that a June 1985 Federal resolution to amend the Constitution to diminish the powers of the Senate has been shelved, Constitutional discussions with the provinces in the future may well lead to the kind of reform of the Upper House, or the creation of a new mechanism, along the lines that British Columbia has long been advocating.

During the year, the Division provided analyses of the Federal Government's Senate reform proposal and provided briefing materials on this issue for the use of the Premier at the May 1985 Western Premiers' Conference and the August 1985 Annual Premiers' Conference.

c) Property Rights

The omission of guaranteed protection for property rights in the *Canadian Charter of Rights and Freedoms* is a serious flaw in the *Charter*. British Columbia believes that the omission impairs the individual freedom of each and every Canadian and that Parliament and Provincial Legislatures should address this issue as quickly as possible.

British Columbia was the first province to initiate an amendment to the Constitution of Canada under the new amending formula. On September 21, 1982, the British Columbia Legislature unanimously passed a resolution proposing that the *Charter* be amended to include "the enjoyment of property" as one of the fundamental rights.

Since then the Minister has written, delivered speeches and travelled to other jurisdictions seeking support for the passage of the property rights resolution in their legislatures. The proposed amendment to be effective requires a resolution by the Federal Parliament and seven provinces having at least 50% of the population of Canada.

On January 16, 1986, the Prime Minister's Office made it clear in a letter to Mr. Gardom that "it is government policy to include a discussion on a property rights amendment in the next round of Constitutional talks".

The property rights issue was considered at a Federal-Provincial meeting of Attorneys General on February 13, 1986 where seven provinces agreed with the suggestion of the Federal Minister of Justice that the matter be referred to a working group of officials for report back to Ministers.

A paper sent by Mr. Gardom to all Attorneys and Bar Association Presidents across Canada prior to the February 13, 1986 meeting of Attorneys General is included as Appendix D on page 34 of this Report.

d) Aboriginal Constitutional Matters

Three of the four First Ministers' Constitutional Conferences on Aboriginal matters, required to be held under the Constitution, have been held. The latest was on April 2 and 3, 1985; the next First Ministers' Conference must be held before April 17, 1987.

The emphasis of recent discussions has been on the subject of aboriginal self-government and whether to entrench this matter in the Constitution. The Province has been reluctant to support a constitutional amendment entrenching "self-government" without first determining what the implications would be in terms of the powers to be given to such governments, the fiscal and tax powers to be exercised, whether new land bases would be sought and the relationship of such governments to other governments.

The Province's position has been "define, then sign", coupled with a willingness to negotiate various modes of self-government at the local band level such as in the case of the Sechelt Indian Band.

Special Projects

Offshore Resources

Settlement of the long outstanding federal-provincial question of the ownership of offshore petroleum resources on the coast of British Columbia could provide the impetus for increased economic development for the benefit of British Columbia and Canada.

The Honourable Garde B. Gardom, Q.C., articulated the basis for resolution of the offshore resources issue on the west coast in the Legislative Assembly on June 28, 1985, and in a speech made in July of 1985 (see speech in Appendix E at page 37).

The Minister of Intergovernmental Relations continued to work with his colleague, the Minister of Energy, Mines and Petroleum Resources to begin discussions with the Federal Government on this matter.

During the period covered by this report, the Director was involved in coordinating the Province's presentation at the fall 1985 hearings of the Federal-Provincial West Coast Offshore Exploration Environmental Assessment Panel inquiring into the issue of the terms and conditions under which offshore petroleum exploration might proceed, should a decision be made to resume exploratory drilling.

Canada — U.S.A. West Coast Maritime Boundaries

The Maritime Boundaries between Canada and the United States on the West Coast

remain in dispute in two areas. In the south, in the area westward beyond the Strait of Juan De Fuca, lying off the coasts of the Province of British Columbia and the State of Washington, the line of the Maritime Boundary is not yet agreed. This is also the case in the north, *both* inside Dixon Entrance, where the course of the Canada-U.S.A. frontier between the Province of British Columbia and the State of Alaska — "the so-called "A-B Line" — is disputed by the United States and outside the entrance, westwards, where no maritime boundary has yet been agreed on.

During the period covered by this report, the United States proposed some resumption of discussions on outstanding West Coast Maritime Boundaries, which earlier had been suspended in 1979 pending the determination of the Gulf of Maine case on the East Coast.

In considering the U.S. proposal, the Federal Government consulted with British Columbia officials who recommended that negotiations not proceed at this time, as any suggestion that the A-B Line might be adjusted southward could seriously jeopardize Canadian and B.C. fishing interests, and destabilize the recently concluded Canada — U.S. Pacific Salmon Treaty during a critical period of implementation by the Pacific Salmon Commission.

E. & N. Railway

Since 1976, the Deputy Minister and Director, Constitutional Affairs and Special Projects have, both at a number of hearings before the Canadian Transport Commission and in the Courts, played a leading role in seeing that the companies responsible for operating the passenger train service between Victoria and Courtenay continue to perform their obligation of maintaining and enhancing the E. & N. passenger train service on Vancouver Island.

During the period covered by this report, the Director, Constitutional Affairs and Special Projects prepared a comprehensive submission to the Canadian Transport Commission calling for a roll-back of the recently raised minimum passenger fare on the E. & N. Regretfully however, in an order made on November 8, 1985, the Commission denied the Province's application.

Cabinet Secretariat

The Government of British Columbia adopted the Cabinet Committee system of decision making in 1976 as part of establishing the Office of Intergovernmental Relations in the Premier's Office. In 1979, the Cabinet Secretariat became a Division of the new Ministry of Intergovernmental Relations. In 1982 the position of Secretary to Cabinet was created in the Office of the Premier and in 1983 the position was transferred to the Ministry of Intergovernmental Relations.

Cabinet meets weekly to consider a wide range of policy matters. Items coming before Cabinet generally are reviewed by a Standing Policy Committee and/or a Management Committee of Cabinet. It is the Secretariat's responsibility to ensure that the matters coming before Cabinet have been fully vetted at the appropriate level, that the ministers have been briefed in advance of a meeting and that the briefing material is concise and useful for the deliberations prior to decision making.

The Secretariat coordinates and establishes an efficient flow of information to Cabinet. It was designed to assist in managing the numerous and complex decisions Cabinet is required to make.

The Secretariat places routine matters before the appropriate Standing Policy Committee for direction. Issues requiring broad government policy or decisions are reviewed by a committee and referred to full cabinet.

Follow-up of Cabinet decisions is the responsibility of the Secretary to Cabinet, who is the Executive Director of the Cabinet Secretariat. Follow up from decisions of Committees is the responsibility of the Cabinet secretaries who, in addition, perform secretariat services for all Cabinet and Deputy Ministers Committees, except Treasury Board.

Overview of Cabinet Committee System

The Cabinet Committee system for decision making provides for:

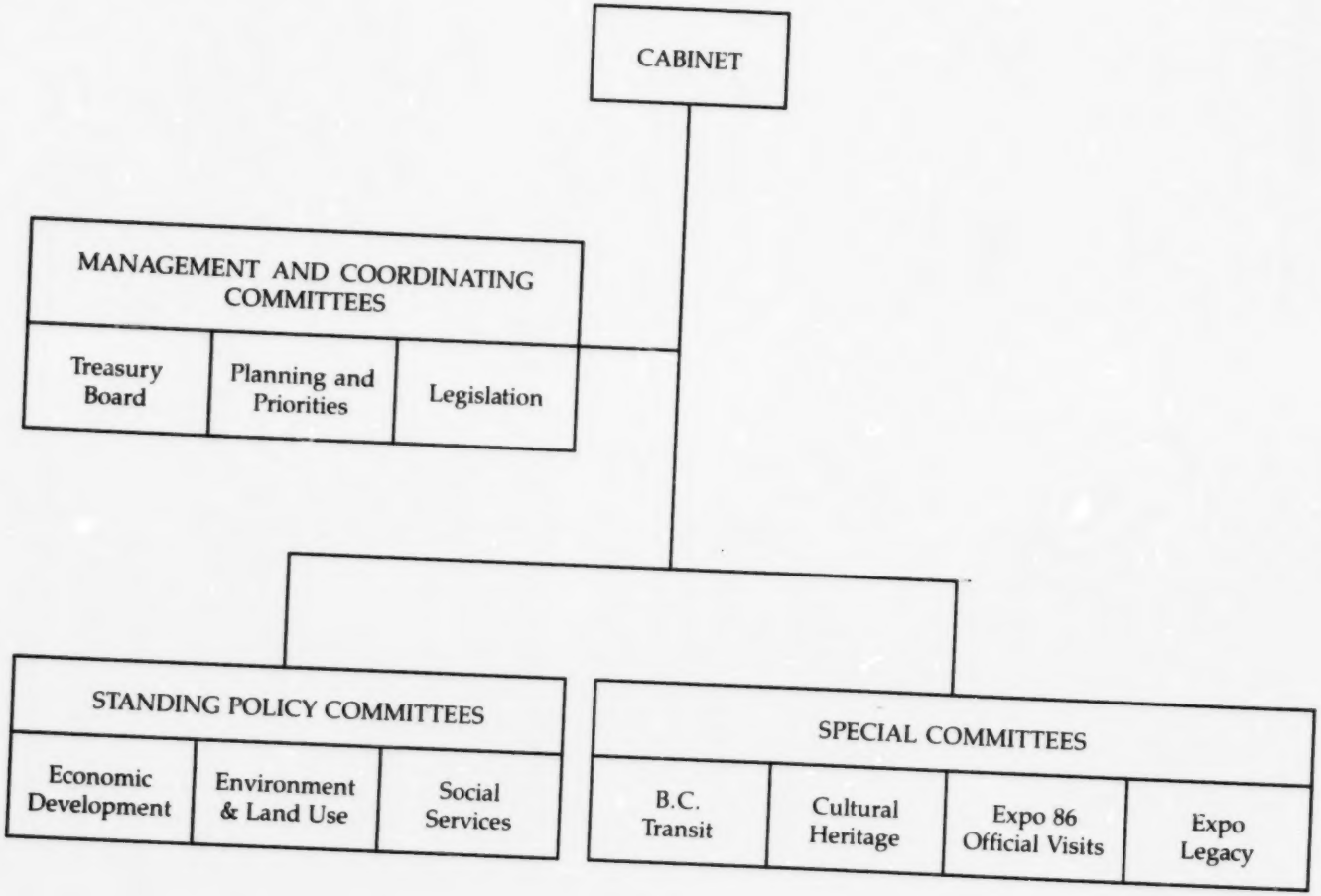
- efficient use of ministerial and staff time;
- information exchange, and an opportunity for Ministers to brief their colleagues;
- early in-depth debate, consideration and refinement of issues before they reach full Cabinet;
- examination of financial and economic feasibility;
- reconciliation of long-term and short-term goals in various policy fields;
- official briefings of Ministers by their staff on technical aspects of issues in a policy field;
- efficient implementation of decisions; and
- consultation with other ministries and agencies on related issues.

The Cabinet Committee system allows for a systematic management of Cabinet deliberations.

The Committee process provides a way to ensure that all factors and issues are considered before decisions are taken. The number of committees, their mandates, membership, and chairmanship are determined by the Premier, as Chairman of the Executive Council.

A Cabinet Secretary is assigned from the Cabinet Secretariat staff to each committee to ensure the proper management and operation of the committee's activities. This includes coordinating the preparation and distribution of briefing materials, providing policy and procedural advice to the committee, setting the agendas, maintaining records of decision, and tracking issues, policy matters, and legislation.

Structure of Major Cabinet Committees



Cabinet Committee on Economic Development Ministers tour Conair Aviation in Abbotsford with Conair President, Les Kerr.

Committee Mandates

There are three types of Cabinet Committees: the Management and Coordinating Committees, the Standing Policy Committees, and the Special Committees, which are formed from time to time to deal with specific issues.

Several of the committees are established by statute. These include Treasury Board (*Financial Administration Act*), Environment and Land Use (*Environment and Land Use Act*), and B.C. Transit (*B.C. Transit Act*).

An item coming before Cabinet normally originates in one of the Standing Policy Committees or one of the Special Committees. Once the item has been assessed by the Committee, it may either be approved for implementation and proceed directly to Cabinet, or be referred to the second level of review, the Management and Coordinating Committees. This level is designed to coordinate policy proposals, legislation, and proposals with staffing, financial and budgetary implications arising from discussions and decisions of the working committees.

Each of the three Standing Policy Committees are supported by committees of Deputy Ministers from their respective ministries. The Secretariat provides secretariat services to each of the Deputy Ministers Committees and some of their subcommittees. Many of the issues addressed by Cabinet originate with the Deputy Ministers' Committees.

Management and Coordinating Committees

1. *The Cabinet Committee on Planning and Priorities*, chaired by the Premier, meets to consider matters relating to general government policy and the establishment of specific priorities.
2. *The Cabinet Committee on Legislation*, chaired by the Honourable Garde B. Gardom, Q.C., Minister of Intergovernmental Relations and Government House Leader, is responsible to ensure that all draft legislation or revisions to existing legislation reflects government policy.

   In 1985-86, the committee met thirty-two times and considered fifty-seven pieces of draft legislation.
3. *The Treasury Board Committee of Cabinet* chaired by the Honourable Hugh Curtis, Minister of Finance, maintains an overview of the government's expenditures, asset management, staffing plans, and ensures that policy and program decisions are taken with full consideration of costs and expenditure limits. This Committee focuses on the government's overall budgetary framework, asset position, and the value and efficiency of programs. Secretariat services for this Committee is provided by Treasury Board staff. The Secretary is the Deputy Minister of Finance.

Standing Policy Committees

4. *The Cabinet Committee on Economic Development (CCED)*, chaired by the Honourable Robert McClelland, Minister of Industry and Small Business Development, is responsible for formulating policies and programs, which encourage comprehensive industrial and economic development in British Columbia. This Committee considers cabinet submissions and meets with organizations and individuals concerned with economic development in the Province of British Columbia.
5. *The Cabinet Committee on Social Services (CCSS)*, chaired by the Honourable Grace McCarthy, Provincial Secretary and Minister of Government Services, is responsible for formulating policies and programs, which encourages the development of a comprehensive social policy framework for British Columbia. This Committee considers cabinet submissions and meets with delegations and individuals concerned with the development of social policy in the Province of British Columbia.
6. *The Cabinet Committee on Environment and Land Use (ELUC)*, chaired by the Honourable Austin Pelton, Minister of Environment, is responsible for integrating land and resource use policy, and resolving land use conflicts. It also deals with the impact on the environment of major projects in the province. This Committee considers cabinet submissions and appeals from decisions of the Agricultural Land Commission, under the *Agricultural Land Commission Act*.

Special Committees

7. *The Cabinet Committee on Cultural Heritage*, chaired by the Honourable Grace McCarthy, Provincial Secretary and Minister of Government Services, is responsible for fostering and encouraging matters related to the diverse multicultural heritage of British Columbia.
8. *The Cabinet Committee on British Columbia Transit*, chaired by the Honourable Grace McCarthy, Provincial Secretary and Minister of Government Services, is required by statute to approve the annual operating budget of the Authority. Additionally, it is responsible for considering and resolving public transportation issues in the province.
9. *The Cabinet Committee on Expo Legacy*, chaired by the Honourable James Hewitt, Minister of Education, is responsible for the Expo Legacy Fund and the allocation of portable buildings, use of the B.C. Pavilion, Expo Centre, and all other Expo assets after Expo 86 is concluded. The committee will be terminated in the fall of 1986 when the work is completed.
10. *The Cabinet Committee on Expo 86 Official Visits*, chaired by the Honourable Garde B. Gardom, Q.C., is responsible for planning and coordinating official visitors to Expo 86. The Committee was created in 1984 and will cease operations in late 1986.

Committee Activities

The Cabinet Secretariat was assigned responsibility for a new committee this year. The addition of the Expo Legacy Committee brought the number of Committees for which the Secretariat is responsible to 10 in addition to full Cabinet.

The Secretariat provided administrative support for over two hundred meetings of Cabinet and its Committees and for which over 2500 briefing books were prepared. The Committees experienced an 80% increase in the number of meetings in the fiscal year and in excess of a 50% increase in the number of items discussed. In addition the Committees met with more than thirty-five groups. The Secretariat arranged tours for the Committees including tours to the southern Queen Charlotte Islands, Northern Vancouver Island, Revelstoke, Langley and the Kamloops-Vernon area.

The Policy Committees received briefs and presentations from the Canadian Manufacturers' Association, the Town of Ladysmith, Pacific Rim Foods Inc., Consumers Glass Co. Ltd., the Business & Professional Women's Clubs of British Columbia and the Yukon, the Council of Senior Citizens of B.C., the B.C. Council of Senior Citizens Organizations, the Western Institute for the Deaf, the B.C. Funeral Services Association, the Cemetery Association of British Columbia, the Catholic Women's League, the Coal Association of Canada, the Association of Professional Engineers, the Prince George Town Centre Business Association, Pacific National Investments Ltd., the Canadian Petroleum Association (B.C. Division), Microtel Limited, Westar Timber Ltd., International Barrier Corporation, the Centre for Advanced Resource Technologies, the Canadian Bankers' Association, Canada West Foundation, B.C. Road Builders, the International Union of Operating Engineers, and the Coal Association of Canada. The tours and meetings with groups during the year were seen as a method of making the committees more accessible to residents of all parts of the province.

The Environment and Land Use Committee heard appeals under the *Agricultural Land Commission Act*, and considered boundary adjustments recommended by local governments. These deliberations resulted in a continued refinement of the Agricultural Land Reserve.

Cabinet Committee Statistics

	84/85	85/86
Number of Meetings	108	183
Number of Items Discussed	449	686
Presentations	48	37

To commemorate the 100th anniversary of Parks Canada, Premier Bennett presents to Wayne Crossen, Parks Canada Area Superintendent, the official Fort Langley Cabinet Book, which will serve as the historic record of cabinet meetings held in Fort Langley for decades to come.

Senior Policy Advisor to the Chairman

Cabinet Committee on Economic Development

This senior office was established in May of 1984 and its first full fiscal year concluded on March 31st, 1986. During the fiscal year 1985-86, this office was responsible for evaluating for the Chairman of the Cabinet Committee on Economic Development any Cabinet Submission prior to its presentation at the Cabinet Committee on Economic Development. As well, special projects having broad economic implications, often involving several ministries, were coordinated through this office. In addition, specific government policy projects were dealt with by the Senior Policy Advisor to the Chairman of the Cabinet Committee on Economic Development.

Cabinet Committee on Economic Development Ministers meet with members of the Canadian Manufacturers' Association in Victoria, April 23, 1986.

British Columbia House, London

British Columbia has had a presence in the United Kingdom for over 114 years. Our first Agent General was appointed in 1872. The B.C. House premises, located in the heart of London's West End at No. 1 Regent Street, was built by the Province between 1913 and 1915 on land leased from the British Crown. That lease continues until the year 2013.

The B.C. Agent General is Mr. Alex Hart, Q.C., who was appointed to that position on January 1st, 1981. Mr. Hart has had a busy year promoting the Province and EXPO 86 in such diverse places as Aberdeen, Edinburgh, King's Lynn, Brussels, Bonn, The Hague, Amsterdam, Oslo, Copenhagen, Paris, Lahr and Belfast.

There were many activities during the 1985-86 year, but without a doubt the highlight was the promotion of EXPO 86. In mid-December 1985 the Commissioner General for EXPO 86, Ambassador Patrick Reid proclaimed B.C. House "The Official European Information Centre" for the World's Fair. Banners, posters and pictures adorn the lobby, and anyone entering is immediately aware of the excitement Expo has to offer between May 2nd and October 13th.

Each year B.C. House arranges appointments for Government ministers, deputy ministers and other Government officials along with the many B.C. executives who represent businesses and tourism throughout the Province. It facilitates their carrying on business in the U.K. and Europe. Organized and planned through its Director of Information, B.C. House representatives worked in close cooperation with their counterparts in the Canadian High Commission in establishing meetings both in the U.K. and Europe.

The British Columbia monthly Newsletter, which is distributed from B.C. House throughout the United Kingdom and Europe to businesses, financial organizations and individuals with interest in the Province, tells of the latest industrial, financial, tourism and social developments in the Province.

The film and slide library receives many requests. Travel agencies, schools and British Columbia House's promotional program fully utilize our film and slide library resources. In addition, assistance in the preparation of visits to B.C. was given to British journalists and broadcasters.

Immigration information is another aspect of the assistance provided by the staff at B.C. House when called in concert with the federal immigration section of the Canadian High Commission in London and Canadian Embassies on the Continent.

Information Services at B.C. House also receive many requests for assistance in matters of health, vital statistics, regulations in every field, taxes, drivers' licences, job opportunities, investment, business addresses and general information about British Columbia.

Besides the day-to-day operation of B.C. House, the office of the Agent General represented Ministries of the Provincial Government in dealings with the United Kingdom and Europe. In order to do this, the Agent General has maintained excellent working relationships with Canadian Government offices in Britain and Europe, with other Agents General and with British and European government departments, as well as expanded contacts with British, European and Canadian private sector groups.

B.C. House played an important role in the promotion of B.C. apples and other B.C. products. The U.K. firm of Glass Glover continued to be British Columbia's largest importer of B.C. apples. Approximately half a million cases of of B.C. apples were placed in all the major U.K. supermarkets during the pre-Christmas season, with sales continuing well into late spring.

The Terry Fox Run in London, a B.C. House annual project, continues to be a tremendous success. The amount raised for Cancer Research in the 1985 run was in excess of $12,000. B.C. House and its employees play an important role in this worthwhile project, the proceeds of which are equally divided between the Canadian Cancer Society and the British Cancer Research Campaign.

B.C. House represents three Government ministries: Intergovernmental Relations, International Trade, Science and Investment, and Tourism. All three ministries work together, in the overall promotion of Canada's most westerly Province. B.C. House continues to play an important role for British Columbia visitors using No. 1 Regent Street as their home away from home address during their stay in the U.K. and Europe.

Appendix A

Directory of Senior Personnel

Minister of Intergovernmental Relations and Government House Leader
Honourable Garde B. Gardom, Q.C.
Room 137, Parliament Buildings, Victoria,
B.C. V8V 1X4
Telephone: 387-5845

Deputy Minister
Melvin H. Smith , Q.C.
468 Belleville Street, Victoria, B.C. V8V 1X4
Telephone: 387-0750

Federal Provincial/International Relations
Executive Director — Peter Heap
468 Belleville Street, Victoria, B.C. V8V 1X4
Telephone: 387-0760

Constitutional Affairs and Special Projects
Director — Norman M. Tarnow
468 Belleville Street, Victoria, B.C. V8V 1X4
Telephone: 387-5221

Cabinet Secretariat
Executive Director — Bert Hick
Room 036, Parliament Buildings, Victoria,
B.C. V8V 1X4
Telephone: 387-6958

B.C. House, London
Agent General — Alex H. Hart, Q.C.
No. 1 Regent Street, London SW1Y 4NS
England
Telephone: (01) 930-6857

B.C. House, Ottawa
Representative — Heather Sheffield
Royal Bank Centre, 506, 90 Sparks Street,
Ottawa, Ontario K1P 5B4
Telephone: (613) 234-8451

Senior Policy Advisor to the Chairman, Cabinet Committee on Economic Development
Special Advisor — Dr. James D. Rae
468 Belleville Street, Victoria, B.C. V8V 1X4
Telephone: 387-0754

Appendix B

Estimates — 1985/86

	Salaries and Benefits	Operating Costs	Asset Acquisition	Grants and Contributions	Totals	Staff (FTE's)
	$	$	$	$	$	
Vote 47, Minister's Office	118,563	6,854	1,500	—	126,917	3
Vote 48, Ministry Operations (Including B.C. House, Ottawa)	1,237,022	354,574	93,000	115,000	1,799,596	35
Vote 48, B.C. House, London	434,315	266,050	5,000	—	705,265	4
TOTALS	1,789,800	627,478	99,500	115,000	2,631,778	42

Revenue—B.C. House, London

Office Space Rentals	$558,548

Appendix C

Cabinet Committee Membership
March 31, 1986

Planning and Priorities

Honourable W.R. Bennett (Chairman)	— Premier
Honourable Hugh Curtis	— Finance
Honourable James Nielsen	— Human Resources — Health
Honourable Robert McClelland	— Industry and Small Business Development
Honourable Garde Gardom, Q.C.	— Intergovernmental Relations
Honourable Grace McCarthy	— Provincial Secretary and Government Services

Treasury Board

Honourable Hugh Curtis (Chairman)	— Finance
Honourable Elwood Veitch	— Consumer and Corporate Affairs
Honourable James Hewitt	— Education
Honourable Jack Heinrich	— Forests
Honourable Robert McClelland	— Industry and Small Business Development
Honourable Garde Gardom, Q.C.	— Intergovernmental Relations

Legislation

Honourable Garde Gardom, Q.C. (Chairman)	— Intergovernmental Relations
Honourable Brian Smith, Q.C.	— Attorney General
Honourable James Hewitt	— Education
Honourable James Nielsen	— Human Resources — Health
Honourable Jack Kempf	— Lands, Parks and Housing
Honourable Claude Richmond	— Tourism

Economic Development

Honourable Robert McClelland (Chairman)	— Industry and Small Business Development
Honourable Tom Waterland	— Agriculture and Food
Honourable Tony Brummet	— Energy, Mines and Petroleum Resources
Honourable Austin Pelton	— Environment
Honourable Hugh Curtis	— Finance
Honourable Jack Heinrich	— Forests
Honourable Pat McGeer	— International Trade, Science and Investment
Honourable Terry Segarty	— Labour
Honourable Jack Kempf	— Lands, Parks and Housing
Honourable Bill Ritchie	— Municipal Affairs
Honourable Claude Richmond	— Tourism
Honourable Alex Fraser	— Transportation and Highways

Social Services

Honourable Grace McCarthy (Chairman)	— Provincial Secretary and Government Services
Honourable Brian Smith, Q.C.	— Attorney General
Honourable Elwood Veitch	— Consumer and Corporate Affairs
Honourable James Hewitt	— Education
Honourable Hugh Curtis	— Finance
Honourable James Nielsen	— Health and Human Resources
Honourable Garde Gardom, Q.C.	— Intergovernmental Relations
Honourable Terry Segarty	— Labour
Honourable Russ Fraser	— Post-Secondary Education

Environment and Land Use

Honourable Austin Pelton (Chairman)	— Environment
Honourable Tom Waterland	— Agriculture and Food
Honourable Tony Brummet	— Energy, Mines and Petroleum Resources
Honourable Robert McClelland	— Industry and Small Business Development
Honourable Jack Kempf	— Lands, Parks and Housing
Honourable Bill Ritchie	— Municipal Affairs
Honourable Alex Fraser	— Transportation and Highways

B.C. Transit

Honourable Grace McCarthy (Chairman)	— Provincial Secretary and Government Services
Honourable Anthony Brummet	— Energy, Mines and Petroleum Resources
Honourable Hugh Curtis	— Finance
Honourable Alex Fraser	— Transportation and Highways
Honourable Bill Ritchie	— Municipal Affairs

Cultural Heritage

Honourable Grace McCarthy (Chairman)	— Provincial Secretary and Government Services
Honourable Elwood Veitch	— Consumer and Corporate Affairs
Honourable James Hewitt	— Education
Honourable Jack Heinrich	— Forests
Honourable Terry Segarty	— Labour

Expo Legacy

Honourable James Hewitt (Chairman)	— Education
Honourable Jack Heinrich	— Forests
Honourable Robert McClelland	— Industry and Small Business Development
Honourable Bill Ritchie	— Municipal Affairs
Honourable Grace McCarthy	— Provincial Secretary and Government Services
Honourable Claude Richmond	— Tourism

Appendix D

British Columbia Paper on Enshrining Property Rights in the Constitution

British Columbia Resolution:

On September 21, 1982 the British Columbia Legislature unanimously adopted a resolution calling for an amendment to the *Canadian Charter of Rights and Freedoms* that would add property rights. The Resolution read as follows:

> Be it resolved that, as the *Constitution Act, 1982* provides that an amendment to the Constitution of Canada may be initiated by the Legislative Assembly of a province, We, the Members of the Legislative Assembly of the Province of British Columbia hereby authorize the Governor General to issue a Proclamation under the Great Seal of Canada to amend section 7 of the *Canadian Charter of Rights and Freedoms* so that it reads as follows:
>
> > "7. Everyone has the right to life, liberty, security of the person and *enjoyment of property*, and the right not to be deprived thereof except in accordance with the principles of fundamental justice."
>
> and urge that the Legislative Assemblies of all other provinces and the Senate and the House of Commons pass similar resolutions.

Property: A Basic Right

- Throughout the history of civilization, democracy has been based upon four basic rights: the right to life, the right to liberty, the right to security of the person, and the right to enjoy property. These rights are the cornerstones on which our society is based.
- The *Canadian Charter of Rights and Freedoms* only guarantees three of these — the right to life, the right to liberty and security of the person. The fourth essential guarantee — the right to the enjoyment or property — is missing.
- The importance of the right to property has been repeatedly reaffirmed throughout history in the Courts and statute law of the United Kingdom and Canada, in the *U.N. Universal Declaration of Human Rights*, in the 1960 *Canadian Bill of Rights* and in the Constitutions of some two dozen nations throughout the world. Countries that constitutionally guarantee property rights include the United States, Australia, Italy, West Germany, Sweden and Finland.

The Property Rights Amendment: Background

- The property rights guarantee was contained in the constitutional proposals introduced by the Federal government as Bill C-60 in 1978, which was never passed, and was proposed for inclusion in the *Constitution Act, 1982* during the hearings of the Special Joint Senate-Commons Committee on the Constitution in January 1981. However, shortly after agreeing to the inclusion of the property rights provision the Liberal government reversed its position and the measure was omitted.
- On September 21, 1982, the British Columbia Legislature unanimously adopted a Resolution, introduced by the Honourable Garde B. Gardom, Q.C., Minister of Intergovernmental Relations, that the Constitution be amended by adding "enjoyment of property" to the rights of life, liberty and security of the person now guaranteed by section 7 of the *Charter*.
- On April 28, 1983, the Official Opposition in the House of Commons, then the federal Conservative Party, introduced a resolution calling for an amendment to section 7 of the Charter identical to that adopted by the British Columbia Legislature, but as it was put as a non-confidence motion, it was defeated by the government.
- There have been many expressions of support for the property rights

amendment from professional and private organizations, including the Canadian Chamber of Commerce, Real Estate Associations across Canada and the Canadian Bar Association, which passed the following Resolution at its Annual Meeting on August 18, 1985:

Whereas Canada has protected democratic rights of life, liberty and security of the person but has not included property rights in the *Canadian Charter of Rights and Freedoms;*

And Whereas the Government of British Columbia has resolved on September 21, 1982 that section 7 of the *Canadian Charter of Rights and Freedoms* be amended to include protection of "enjoyment of property";

Be it resolved that the Canadian Bar Association urges the Parliament of Canada and Legislative Assemblies of all Provinces to amend section 7 of the *Canadian Charter of Rights and Freedoms* so that it reads:

"7. Everyone has the right to life, liberty, security of the person *and enjoyment of property,* and the right not to be deprived thereof except in accordance with the principles of fundamental justice."

- Other governments have expressed their support for the constitutional entrenchment of property rights, while the New Brunswick and Yukon Legislative Assemblies have passed resolutions to entrench property rights in the Constitution. In order for such an amendment to become effective, it requires a resolution by the Federal Parliament and a total of seven provinces having at least 50% of the population of Canada.

Entrenchment of Property Rights: No Impediment to Environmental and Zoning Laws

- Some people erroneously believe that the property rights guarantee would somehow invalidate municipal zoning, resource, environmental and real property laws. In May 1985, the Ontario Branch of the Canadian Bar Association Property Rights Entrenchment Committee issued a report which found that no "existing governmental scheme would be prevented or seriously impeded by the inclusion of the words 'enjoyment of property' in section 7 of the Charter."

- The Canadian Bar Association report makes clear that: "the protection afforded by entrenchment of the rights recognized in section 7 of the *Charter* is not absolute. All such rights are subject to the provisions of section 1 of the *Charter* which reads:

  The *Canadian Charter of Rights and Freedoms* guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

  This section must be kept in mind in assessing the potential impact of the entrenchment of property rights upon the ability of legislators to enact laws concerning natural resources, environmental or land use planning. Legislation dealing with any subject matter which imposes only reasonable limits upon the property right will be unaffected by entrenchment."

- The Canadian Bar Association report points out that in the United States: "Legislatures and government agencies have been able to enact and enforce zoning and environmental protection laws despite the provisions of Amendments V and XIV of the U.S. Constitution. Amendment V provides, in part, 'nor shall any person . . . be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation' while Amendment XIV provides, 'nor shall any state deprive any person of life, liberty, or property, without due process of law.' "

- The Government of British Columbia has carefully studied the concerns raised, for example by Prince Edward Island, respecting its resident land ownership requirements, and by those who fear that zoning, environmental, and health legislation would be impaired by guaranteed property rights.

- In every case British Columbia is satisfied that these fears are unwarranted.

The Property Rights Amendment: No Threat to Women's Rights

- Some concern has been expressed that the addition of property rights to the

Charter would somehow harm the matrimonial property legislation across Canada which provides for the division of assets upon divorce or separation.

- In the United States whose Constitution has for 195 years contained a property rights provision (the Fifth Amendment and the Fourteenth Amendment which was added 118 years ago), and where state constitutions contain similar provisions, no statutes providing for the division of property upon the dissolution of marriage have ever been held unconstitutional.
- An additional safeguard not contained in the United States Constitution is section 1 of our *Charter* which preserves legislation which is within "reasonable limits . . . as can be demonstrably justified in a free and democratic society."
- Surely the issues of harm to women's property rights, to environmental and land use legislation, are unrealistic concerns. They should not continue to be permitted to stand in the way of immediately remedying the glaring and serious omission of constitutionalized property rights for all Canadians.

Appendix E

Excerpts from a Speech given by the Honourable G.B. Gardom, Q.C., Minister of Intergovernmental Relations, July 1985.

Offshore Resources

Definition:

There are four principle areas. Let me state these from the direction of the B.C. mainland seaward.

(1) The "Internal Waters", the "Inland Marine Zone". i.e. everything between the Queen Charlotte Islands and Vancouver Island, and the mainland.

(2) The "Territorial Sea". It used to be three miles from Canada's International Baseline, i.e. three miles from the western side of Vancouver Island and the Charlottes, but following developments in International Law, Canada in 1970 statutorily altered its "Territorial Sea" changing the distance from three to twelve nautical miles — as has occasioned in most parts of the world.

(3) The geographical "Continental Shelf" which is almost contiguous to the western extremity of our territorial sea.

(4) The "Economic Zone" which extends 200 miles from the baseline of the Territorial Sea. By virtue of the law of the sea, this area is not "owned" by Canada, as it is not by any coastal country, but Canada, similar to other countries, does have the right to explore for and harvest resources there.

Judicial Conclusions:

In 1967 the Supreme Court of Canada held that the bed of the territorial sea, then three miles, and the bed of the continental shelf off British Columbia came under Federal authority. This decision largely resulted from the Court's consideration of a number of ancient English common law cases, one of the leading ones of which dealt with the criminal law jurisdiction of British Admiralty Courts. This basis for the law, and the conclusions reached really does not serve the interests of contemporary Canada, and certainly not in the area of modern day seabed resource development.

Whether the Supreme Court of Canada would reach a similar conclusion in the 1980's is questionable. Further, it has to be noted that the Court has the capacity to reverse itself.

May 17, 1984 was an historic day for the people of B.C. The hallmark decision of the Supreme Court of Canada supporting the majority decision of our B.C. Court of Appeal that the seabed of Georgia Strait was Provincial territory. Great credit is due to Counsel Mr. George S. Cumming, Q.C., now Mr. Justice Cumming, Deputy Minister Mr. Mel Smith and Mr. Norman Tarnow, who laboured hard and long over the years at the constitutional table and before the Courts, with well-reasoned research.

The Court concluded, as B.C. always said was the case — that the seabed territory between mainland B.C. and Vancouver Island, the seabed of those internal waters, was part of British Columiba and not a no man's land, a Federal territory separating Vancouver Island from our mainland. This encompassing decision included the beds of the Strait of Georgia, of Juan de Fuca, of Johnston Strait and Queen Charlotte Strait.

None of this has interfered with the usual division of Federal-Provincial powers under the *Constitution Act*. Nor should it. B.C.'s communication routes, ferries, pipelines, power lines, underwater cables that linked Vancouver Island with the Mainland remain under provincial jurisdiction. Under Federal jurisdiction remain its usual powers. For example, shipping, navigation, and customs.

In any event, the Court route isn't the best route.

Need for an Accord

There should be a policy accommodation, an Accord. Courts look to precedents and

analogies, but some of those may little assist in determining whether the people closest to the activity or various levels of government, should control a multi-dimensional technical project, like offshore petroleum or natural gas exploration and development — which could effect many of the aspects of coastal and provincial economic betterment and coastal environment.

In order to clarify and better confirm the B.C. situation, the seabed of the internal waters landward of the territorial sea were designated by B.C. Order-in-Council in 1981 as areas where all petroleum and natural gas is reserved to Her Majesty in Right of the Province. This area is known as the provincial "Inland Marine Zone".

This was to ensure orderly transition, and B.C. agreed that all petroleum companies who already had exploration interests with the Federal Government would be granted first opportunity of renegotiating with B.C. In addition, B.C. would refrain from issuing its own leases pending Federal-Provincial negotiations. Social and environmental concerns were and are of paramount importance.

Currently a moratorium still exists for drilling in these areas.

What B.C. is seeking is an updating of Canadian Constitutional Law and affirmation of the Georgia Strait seabed inland marine zone concept to our northern waters through boundary confirmation, plus the extension of the boundary of our Province twelve miles westward of our island land masses, i.e. to include the bed of the territorial sea.

Other Regions

Having the seabed of inland waters provincial territory as opposed to federal, parallels situations in other parts of Canada — the seabed of Conception Bay belongs to Newfoundland. The bed of the Bay of Fundy is that of Nova Scotia, and the bed of the Great Lakes right to the Canadian border belongs to Ontario! In the international sense, the same has occasioned in the Philipines and Indonesia.

As mentioned, the Ontario border southward extends right to the Canada/U.S. international water boundary line along the middle of the Great Lakes. In other words, Ontario's boundaries are the same as those of Canada's both in water as they are on land. That is completely consistent with the position that we are advocating for B.C.

Also, in the Great Lakes, the Government of Canada and the Government of Ontario are subject to the same responsibilities and same division of powers called for under the *Constitution Act*.

Very significant also is the fact that Ontario owns the resources of the seabed — not out to a three-mile limit or out to a twelve-mile limit but right out to the international boundary! This fact and this ownership, and flowing from it considerable economic advantages (the petroleum and producing natural gas fields on the Ontario side of Lake Erie) has been unchallenged since Confederation.

Every penny of that royalty revenue goes to the provincial Government of Ontario! In 11 years, 1974 to 1984, for licenses, leases and royalties that came to over $21 million.

The Government of Canada has never contested Ontario's rights of ownership, nor its rights to make laws respecting the ownership of the bed and minerals in the Great Lakes.

There is absolutely no reason why the Government of Canada should take any different attitude towards the resources off B.C.'s seabed.

Australia also bears consideration, but for different reasons. Firstly, the High Court of Australia in 1976 upheld 1973 Commonwealth (Federal) legislation which asserted ownership of all submerged land (including bays, estuaries, and inland waters — all of which are provincial in Canada) as well as the territorial sea.

Next, an agreement in 1979, which gave their States authority over the seabed of the territorial sea just as if it was land within the states plus the economic rights. They then entered into economic sharing in the area beyond the territorial sea.

In short, Australia achieved a practical and realistic accommodation.

This type of provincial or state ownership of the terrirorial seabed is also not unique to Canada or Australia. It is found in the United States.

In 1953, Congress passed the *Submerged Lands Act* which granted coastal states offshore jurisdiction to three nautical miles of their coastlines, with an extension to nine miles for the states on the Gulf of Mexico, Texas and Florida.

Route to Resolution

Today the Government of Canada and an involved province one-on-one can reach agreement on matters such as these.

When he was Prime Minister, the Rt. Hon. Joe Clark provided the breakthrough. His policy was of the genesis that appreciated that people who live in coastal provinces view the ocean and everything under it as an extension of their livelihood.

Also when then Prime Minister Clark started his dealings with Newfoundland Premier Peckford, he clearly recorded his Government's policy with Premier Bennett, that his

> "Party had been long dedicated to the belief that the provinces should own the mineral resources off their shores and enjoy legislative jurisdiction over these resources comparable to their jurisdiction over natural resources located on shore, within their boundaries"

In short, Mr. Clark appreciated seabed resources in a province should be treated no differently from resources on land.

In February 1985, Prime Minister Mulroney and Premier Peckford concluded the "Atlantic Accord", providing for joint management over the whole of Newfoundland's continental shelf, which is co-extensive with Canada's 200 mile economic zone but extends out about 190 miles beyond that of the B.C. shelf.

B.C.'s position is that the seabed of the Territorial sea would be that of British Columbia constitutionally, within our Province, and not just by Federal/Provincial agreement. Accord could be reached for the area beyond the territorial sea and within the economic zone off our west coast.

All along B.C. has been ready, willing and able to come to the table and conclude the definition of our provincial west coast boundary.

What is needed is a one-on-one agreement with the Government of Canada, followed by bilateral Federal and Provincial legislation under the *Constitution Act* which provides that the Parliament of Canada with the consent of the Legislature of a Province, can increase or alter the limits of such province. This power has existed since 1871.

B.C. wishes to be recognized as extending seaward and westward to the Canadian Boundary, to be treated as is Ontario — also the seabed of Dixon Entrance, Hecate Strait and Queen Charlotte Sound to be dealt with as is Georgia Strait. That is fundamental logic.

There is all sorts of Canadian constitutional precedent for this kind of boundary redefinition — already some 18 separate pieces of Federal/Provincial legislation stretching as far back as 1898 dealing with Quebec, later with Ontario, Manitoba and the Northwest Territories. The concept is neither new nor novel.

Dealings with the continental shelf and the 200 mile economic zone, could be resolved by an offshore agreement — again such a "Pacific Accord" would require only one-on-one agreement with the Government of Canada plus an amendment under Canada's constitution — again one-on-one.

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Victoria, 1986